

COURT U.S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
FILED
JUN 12 2008
CLERK, U.S. DISTRICT COURT
By _____
Deputy

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On May 19, 2008, a Report and Recommendation was issued by the United States Magistrate Judge recommending plaintiff's claims against defendants McCLURE, WILLIAM, FRANKLIN, THOMPSON, and AGUIRRE be dismissed with prejudice to being asserted again until the *Heck* conditions are met, *Johnson v. McElveen*, 101 F.3d 423, 424 (5th Cir. 1996), and that plaintiff's claims against defendant TEXAS DEPARTMENT OF CRIMINAL JUSTICE be dismissed without prejudice pursuant to Federal Rules of Civil Procedure 12(b)(1).

The period for response has expired, and no objections have been filed by plaintiff.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation. The Court is of the opinion that the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge in this case.

IT IS THEREFORE ORDERED that the Civil Rights Claims by plaintiff KARL SHACKELFORD, also known as KARL LYNN SHACKELFORD, also known as KARL LYNN McGEE, against defendants OFFICER D. McCLURE, OFFICER NFN WILLIAM, OFFICER NFN FRANKLIN, OFFICER NFN THOMPSON, and R. AGUIRRE, Captain, are DISMISSED WITH PREJUDICE TO BEING ASSERTED AGAIN UNTIL THE *HECK* CONDITIONS ARE MET, *Johnson v. McElveen*, 101 F.3d 423, 424 (5th Cir. 1996), and that plaintiff's claims against defendant TEXAS DEPARTMENT OF CRIMINAL JUSTICE are DISMISSED WITHOUT PREJUDICE PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE 12(b)(1).


LET JUDGMENT BE ENTERED ACCORDINGLY.

Any pending motions are DENIED.

The Clerk shall send a copy of this Order to plaintiff and to any attorney of record.

IT IS SO ORDERED.

ENTERED this 12<sup>th</sup> day of June, 2008.

  
MARY LOU ROBINSON  
UNITED STATES DISTRICT JUDGE